

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

**FILED**  
IN CLERK'S OFFICE  
U.S. DISTRICT COURT E.D.N.Y.  
★ SEP 04 2013 ★

\_\_\_\_\_  
ZEPHRINE S. CUMMINGS,

BROOKLYN OFFICE

Plaintiff,

-against-

**MEMORANDUM  
AND ORDER**  
13-CV-4917 (JBW)(LB)

JOANN RABOT, Deputy Director, Office of  
Appeals and Reviews; NYC DEPARTMENT  
OF EDUCATION,

Defendants.  
\_\_\_\_\_

X

**WEINSTEIN, United States District Judge:**

*Pro se* plaintiff Zephrine Cummings filed this action against the New York City Department of Education ("DOE") and Joann Rabot, Deputy Director, Office of Appeals and Reviews at the DOE, alleging employment discrimination under Title VII of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000e to 2000e-17. The claim against defendant Rabot is dismissed and plaintiff's request to proceed *in forma pauperis* ("IFP") is denied. Plaintiff is granted thirty days to pay the filing fee to proceed with this action.

**I. Filing Fee**

Under 28 U.S.C. § 1914, the filing fee to commence a civil action is \$350 plus an additional cost of \$50, for a total of \$400. Under 28 U.S.C. § 1915, the Court may waive the filing fee upon finding a plaintiff indigent. In his request to proceed *in forma pauperis*, plaintiff provides that he receives the following monthly income: pension (\$5770.00); social security (\$1774.00); dividends (amount not stated); interest (\$670.00) and rent (\$625.00) and that he has \$200,500.00 in cash or in a bank account. He states that he has debts or financial obligations of \$7000.00 per month but does not describe to whom they are paid, that his wife is dependent on



him, and that he pays \$125.00 for utilities. He also states that he has loans of \$15,000.00 and \$214,900.50. Although he does not so state, it appears that these numbers reflect total loan amounts, not monthly payments.

The Court declines to grant *in forma pauperis* status at this juncture. The Court finds that plaintiff's financial declaration does not support a showing of indigency. The Court directs plaintiff to pay \$400 to the Clerk of Court of the Eastern District of New York within fourteen (14) days from the date of this Order. If plaintiff fails to comply with this order within the time allowed, the action shall be dismissed without prejudice.

## **II. There Is No Individual Liability for Title VII Discrimination**

Title VII provides that "every person, whether a citizen or not, has a right to be free from discrimination in employment on the basis of race, color, gender, national origin, or religion." 42 U.S.C. § 2000e-3(a). Title VII does not, however, provide for individual liability, *Tomka v. Seiler Corp.*, 66 F. 3d 1295, 1313 (2d Cir. 1995), and therefore the individual defendant plaintiff has named is not a proper defendant in this action. *See also Garibaldi v. Anixter, Inc.*, 407 F. Supp. 2d 449, 451 (W.D.N.Y.2006) ("[T]here is no individual liability under any of the federal anti-discrimination statutes, including Title VII, the ADA, and the ADEA."). Thus, the individual defendant named in the instant action, defendant Joann Rabot, an employee of the New York City Department of Education is subject to dismissal.


## **CONCLUSION**

The Court directs plaintiff to pay the filing fee and administrative fees totaling \$400 to the Clerk of Court of the Eastern District of New York within fourteen (14) days from the date of this Order in order to proceed with this action. If plaintiff fails to comply with this order within the time allowed, the action shall be dismissed. The Court certifies pursuant to 28 U.S.C.

§1915(a)(3) that any appeal from this order would not be taken in good faith and therefore *in forma pauperis* status is denied for purpose of an appeal. *Coppedge v. United States*, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York  
9/4, 2014



Jack B. Weinstein  
United States District Judge